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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/092,269

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Clinton R. Paul

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Mark Goldberg
1200 Alexandra Blvd.
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EXAMINER

VAN DOREN, BETH

ART UNIT

PAPER NUMBER

3623

DATE MAILED: 08/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/092,269

Applicant(s)

PAUL, CLINTON R.

Examiner

Beth Van Doren

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 March 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The following is a non-final, first office action on the merits. Claims 1-14 are pending.

Claim Objections

2. Claim 7 is objected to because of the following informalities: typographical error. Claim 7 recites “wherein said comments are communications is by a text message”, which more appropriately should be --wherein said communications are by a text message--. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 9 and 11-13 rejected under 35 U.S.C. 102(e) as being anticipated by Pittelli (U.S. 6,993,496).

As per claim 9, Pittelli teaches a system for selecting rap musician, said system comprising:

a. at least two information processing terminals and at least one control station for connecting said information (See figure 6, which discloses the genre of rap music. See figures 1A, 1B, and 2, and column 3, lines 5-20, which discloses a client and server environment).

b. a means for participants to input an entry into said terminal and communicate said entry to other persons connected to said control station (See column 2, lines 30-42, column 3,

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lines 5-15 and 53-65, column 5, lines 15-25, wherein an internet website allows submission of music and demos of the musician. This entry is viewable via the website. See column 6, lines 5-25);

c. a means to store said entries in a computer and to provide access to other persons to view said entries (See column 2, lines 30-44, column 3, lines 15-25 and 50-67, column 4, lines 40-50, wherein means to store and allow access to the entries is described);

d. a means for said other persons to input a rating of said entries (See figures 3 and 5-6, column 3, lines 60-67, column 4, lines 40-55, column 5, lines 30-45, column 6, lines 5-30, wherein the website allows visitors to vote on competitors and those that are preferred are communicated, such as allowing certain artists to be financially back or by visually displaying the top 10 artists above lower ranked artists in a list); and

e. a means to communicate such ratings to the participants and the other persons (See figure 7, column 6, lines 10-25 and line 60-column 7, line 20, wherein the artists (participants) are displayed based on votes and rankings).

As per claim 11, Pittelli teaches wherein said information includes information by which an administrator of said data base may collect a monetary fee from said participants and other persons (See column 4, lines 1-10, column 5, lines 15-25, wherein the artists register with the site and sign contracts and pay a commission to the site manager. See also figure 4, column 4, lines 30-50, column 6, lines 25-40, wherein information concerning fans is collected and stored in a database. Observers pay monies to interact with the system).

As per claim 12, Pittelli teaches wherein participants with the highest ratings receive as a prize an opportunity to communicate their entry to individuals outside of said system (See figure

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5, column 2, lines 45-55, column 4, lines 3-12, column 5, lines 37-42 and 53-67, wherein a winning competitor who is backed (voted on) by a predetermined number of fans is selected and is given an opportunity to make a commercial recording.

As per claim 13, Pittelli teaches wherein said input means is selected from the group consisting of a keyboard, a mouse, a microphone, a camera and a digitizing tablet (See column 3, lines 20-25).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-8, 10, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pittelli (U.S. 6,993,496) in view of Elliott (U.S. 2003/0163339).

As per claim 1, Pittelli teaches a process for selecting the best rap performer from a group of competitors, comprising the steps of:

a) providing an internet web site that is accessible to competitors interested in competing in a rap music competition and to observers interested in observing said competition (See figure 6, which discloses the genre of rap music. See column 2, lines 30-42, column 3, lines 5-15 and 53-65, column 5, lines 15-25, wherein an internet website allows submission of music and demos of the musician);

b-i) providing a registration function on said internet web site in which said competitors input prescribed information and pay prescribed fees (See column 4, lines 1-10, column 5, lines

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15-25, wherein the artists register with the site and input demos, sign contracts, and pay a commission to the site manager);

b-ii) providing a function on said internet web site in which said observers pay money to funds and wherein information is collected concerning the observers (See figure 4, column 4, lines 30-50, column 6, lines 25-40, wherein information concerning fans is collected and stored in a database. Observers pay monies to interact with the system) and providing the observer membership when the artist attains enough backing (See column 2, lines 55-65);

c) providing a performance function on said web site for said competitors to input a rap entry comprising words, music or a combination thereof to said web site and to display said entry to each competitor and observer through a computer network (See column 2, lines 30-42, column 3, lines 5-15 and 53-65, column 5, lines 15-25, wherein an internet website allows submission of music and demos of the musician. This entry is viewable via the website. See column 6, lines 5-25); and

d) providing a voting function for said competitors and observers to indicate a preferred competitor and to communicate said preference to said competitors and observers (See figures 3 and 5-6, column 3, lines 60-67, column 4, lines 40-55, column 5, lines 30-45, column 6, lines 5-30, wherein the website allows visitors to vote on competitors and those that are preferred are communicated, such as allowing certain artists to be financially back or by visually displaying the top 10 artists above lower ranked artists in a list).

However, while Pittelli discloses an observer interacting with a site, paying money, and obtaining membership, Pittelli does not expressly disclose providing a registration function in which said observers input prescribed information and pay prescribed fees.

Elliott discloses providing a registration function in which said observers input prescribed information and pay prescribed fees to view an event that was uploaded to a central internet site, wherein (See paragraphs 0027-28 and 0035-37).

Pittelli and Elliot both disclose Internet based site to which events and music are uploaded and are viewed by an observer. Pittelli discloses that the observers pays money and allows information to be collected about the observer. Elliott specifically discloses that the observer registers with the system and pays membership fees. A user of a website having to establish a profile with the system and pay registration fees is well known. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to include that the observer of Pittelli has to register and pay prescribed fees in order to more efficiently provide services to a paying user in a secure manner.

As per claim 2, Pittelli discloses wherein said competitors input said rap entry and wherein the system has input devices (See figure 6, which discloses the genre of rap music. See column 2, lines 30-42, column 3, lines 5-15 and 53-65, column 5, lines 15-25, wherein an internet website allows submission of music and demos of the musician. See also column 3, lines 20-25, which disclose input devices). However, Pittelli does not expressly disclose using a microphone to input the entry.

Pittelli discloses input devices, such as a keyboard or a mouse. Pittelli further discloses allowing an artist, such as a musician, to upload a music/rap demo to the system. Microphones are well known input devices used to record music/rap. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to include a microphone in the input

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devices of Pittelli in order to more efficiently allow the user to capture and upload the demo using a known input device.

As per claim 3, Pittelli discloses wherein said competitors input a visual image (See column 2, lines 60-65, wherein the observers are able to view videos). Pitelli further discloses rap entries (See figure 6, which discloses the genre of rap music. See column 2, lines 30-42, column 3, lines 5-15 and 53-65, column 5, lines 15-25, wherein an internet website allows submission of music and demos of the musician. See column 6, lines 5-25). However, Pittelli does not expressly disclose that the entry is shown by transmitting a web cam video to said performance function.

Elliott discloses providing live events via an internet site by transmitting a web cam video to said performance function (See paragraphs 0011, 0019, 0030-33, wherein events are captured via camera and transferred to the internet site for viewing).

Pittelli and Elliot both disclose Internet based site to which events and music are uploaded and are viewed by an observer. Pittelli discloses that the rap artist upload rap entries that are viewable by observers, as well as letting observers have access to videos. Elliott discloses that the uploaded data is a live event, which is viewable by the subscribing observer. It would have been obvious to one of ordinary skill in the art at the time of the invention to include that the videos of Pittelli are uploaded in the manner of Elliott in order to increase the ease of allowing the observers of Pittelli to view the artists and vote on the artists.

As per claim 4, Pittelli teaches wherein said prescribed information input during registration on said web site is stored in a data base (See column 2, lines 30-44, column 3, lines

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15-25 and 50-67, column 4, lines 29-50, wherein information input and collected is stored in a database).

As per claim 5, Pittelli teaches wherein said information is analyzed to determine one or more geographic locations exhibiting a concentration of observers (See column 4, lines 25-40, wherein the geographic location of the supporters is analyzed). However, Pittelli does not expressly disclose, nor does Elliott, determining geographic locations exhibiting a concentration of competitors.

Pittelli discloses a system wherein information is analyzed to determine one or more geographic locations exhibiting a concentration of observers. Further, Pittelli has the competitors register with the managers of the system by signing a contract. It is well known in the art to want to attract participants to the website of a management company. Therefore, in the case of Pittelli, Pittelli would want to attract both artists and consumers to the website in order to make money. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to determine the geographic concentration of the competitors in the same manner as the geographic concentration of the observers is obtained by Pittelli in order to increase the accuracy of marketing by the system's management company by understanding the users of the system. See column 4, lines 30-39, of Pittelli.

As per claims 6 and 7, Pittelli teaches wherein said process further comprises chat wherein said competitors and observers are able to communicate with one or more other competitors and observers (See column 6, lines 35-45, wherein the competitors and observers meet and chat). However, Pittelli does not expressly disclose a chat function while logged onto said web site by way of a text message board or an internet instant messaging system.

Pittelli discloses a website where contributing users earn the right to communicate and chat with artist they support. Text message boards and instant messaging systems are old and well known in network communications. Further, it is well known for artists and actors/actresses to hold online chat sessions with fans. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to use a text message board or an internet instant messaging system to hold the chats of Pittelli in order to increase the ease of having such chats with a larger number of fans and in a more safe and secure environment for the artist.

As per claim 8, Pittelli teaches wherein a winning competitor is selected to receive at least one reward selected from the group consisting an opportunity to participate in a live performance at a concert or a performance on television, money, merchandise, discounts, and an opportunity to make a commercial recording (See figure 5, column 2, lines 45-55, column 4, lines 3-12, column 5, lines 37-42 and 53-67, wherein a winning competitor who is backed (voted on) by a predetermined number of fans is selected and receives at least money, touring, merchandising, and an opportunity to make a commercial recording).

As per claim 10, Pittelli teaches a means for participants to register and enter information for collection on a central data base (See column 4, lines 1-10, column 5, lines 15-25, wherein the artists register with the site and input demos, sign contracts, and pay a commission to the site manager. See column 2, lines 30-42, column 3, lines 5-15 and 53-65, column 5, lines 15-25, wherein an internet website allows submission of music and demos of the musician). Pittelli also discloses other persons paying money to funds and information being collecting concerning the other persons (See figure 4, column 4, lines 30-50, column 6, lines 25-40, wherein information concerning fans is collected and stored in a database. Observers pay monies to interact with the

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system) and providing the observer membership when the artist attains enough backing (See column 2, lines 55-65). However, Pittelli does not expressly disclose other persons specifically registering and entering information for collection.

Elliott discloses providing a registration function in which said observers input prescribed information and pay prescribed fees to view an event that was uploaded to a central internet site, wherein (See paragraphs 0027-28 and 0035-37).

Pittelli and Elliot both disclose Internet based site to which events and music are uploaded and are viewed by an observer. Pittelli discloses that the observers pays money and allows information to be collected about the observer. Elliott specifically discloses that the observer registers with the system and pays membership fees. A user of a website having to establish a profile with the system and pay registration fees is well known. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to include that the observer of Pittelli has to register and pay prescribed fees in order to more efficiently provide services to a paying user in a secure manner.

As per claim 14, Pittelli teaches chat and conversations that allow communication between a participant and one or more other persons (See column 6, lines 35-45, wherein the competitors and observers meet and chat). However, Pittelli does not expressly disclose a conversation section while connected to the system.

Pittelli discloses a website where contributing users earn the right to communicate and chat with artist they support. Text message boards and instant messaging systems are old and well known in network communications. Further, it is well known for artists and actors/actresses to hold online chat sessions with fans. Therefore, it would have been obvious to one of ordinary

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skill in the art at the time of the invention to use a text message board or an internet instant messaging system to hold the chats of Pittelli in order to increase the ease of having such chats with a larger number of fans and in a more safe and secure environment for the artist.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Chacker (U.S. 6,578,008) and (U.S. 2003/0195795) disclose an online talent system where users vote on favorite artists.

Cruz (U.S. 2002.0123924) discloses a voter entering the name of the artist or performer the voter wishes to see and information to identify the voter such as a user name and a password, and the system tracks voter information such as geographical identities.

Rouchon (U.S. 2001/0025259) discloses a radio station system where listeners can receive distributed music.

Lydon et al. (U.S. 6,569,012) discloses an online system for contestants.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Beth Van Doren whose telephone number is (571) 272-6737.

The examiner can normally be reached on M-F, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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August 2, 2006

Beth Van Doren
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